IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A.No.1457 of 2002

Date of Decision : 21.7.2009

Gian Singh ...Appellant

Versus

Joginder Singh and Others ...Respondents

CORAM:HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr. Vinod Arya, Advocate,
for the appellant.

Mr. S.S.Walia, Advocate,
for the respondents.

HEMANT GUPTA, J. (ORAL)

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby his suit claiming decree for permanent injunction restraining the defendants from dispossessing the plaintiff from the house, was dismissed.

The plaintiff is son of defendant No.1 and brother of defendant Nos.2 to 5. He claims to be in exclusive possession of the property in dispute on the basis of oral family settlement. Both the Courts have recorded a concurrent finding of fact that the plaintiff has failed to prove the alleged family settlement. The plaintiff has not given any date, month or year of the alleged family settlement or the name of the persons, in whose presence the family settlement might have taken place. It has been further found that the revenue record reflects defendant No.1 to be the owner in possession of the land in dispute and in column of possession

the owners are recorded to be in possession. It has been further found that the possession of plaintiff is in the capacity of son of defendant No.1 i.e. His possession is permissive not more than that of licencee.

The findings recorded by both the Courts are sought to be disputed by reappreciation of evidence. However, it could not be pointed that any evidence has been misread or not taken into consideration. Findings of fact recorded by the Courts below cannot be permitted to be disputed by reappreciation of evidence in second appeal. Consequently, I do not find that any substantial question of law arises for consideration by this Court.

Dismissed.

21.7.2009 (HEMANT GUPTA)
Vimal JUDGE